

MEETING SUMMARY

NACEPT Superfund Subcommittee

December 9-11, 2003

Hilton Crystal City

Arlington, VA



*Prepared by Meridian Institute
January, 2004*

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Hilton Crystal City

2399 Jefferson Davis Highway

Arlington, VA

The Superfund Subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) held its eighth meeting December 9-11, 2003 in the Washington D.C. area. This document summarizes discussion topics and key decisions made during the meeting. The meeting was open to the public and audio recorded. Interested individuals and members of the press were present as observers. The Subcommittee's agenda designated several opportunities for public comment. A written transcript was prepared and is available through the Environmental Protection Agency's (EPA) Docket #SFUND-2002-0005. Angelo Carasea, the Designated Federal Officer (DFO), is the primary point of contact for all public and press inquiries.

Objectives

The December 9-11, 2003 meeting in Washington D.C. was intended to accomplish the following objectives:

- *Discuss areas of convergence that are developing in the latest draft of the report.*
- *Discuss areas of disagreement that remain in the latest draft of the report.*
- *Discuss options for finalizing the report given the range of views on the Subcommittee and the status of deliberations.*

Introductions and Welcome

Dr. Raymond Loehr, Chairman of the Subcommittee, opened the meeting and welcomed the Subcommittee members. He introduced John Ehrmann, the lead facilitator for the group, from Meridian Institute. Dr. Loehr summarized the Subcommittee's charge, its activity since the November 2003 meeting and the goals for the eighth meeting. The Introductory Statement was available as a handout and is included in Attachment A. John Ehrmann reviewed the objectives of the meeting, reviewed the material circulated prior to the meeting and summarized the agenda for the meeting and the draft report.

Direction for the next revision of the Report

Discussion of the draft report began on Tuesday and continued through Thursday morning. The next iteration of the report will be modified based on comments received from Subcommittee members in the meeting and in writing. During the meeting, deliberations focused in particular on the following issues:

- Other programs (recommendation 5)
- Funding, including tax (recommendation 1)

- Identifying national-level measures of performance (recommendation 20)
- Defining priorities at listed sites (recommendation 7)
- Guaranteed fixed price contracting (recommendation 11)
- The mega site section reworking, particularly concerns over the scenarios
- Pollution prevention
- Financial assurance
- Background data sections

The Meridian staff and the Chair presented the following proposal for pursuing consensus on outstanding issues.

Recommendation 1 – Limited Increase in Annual Appropriation

- Move to another section of the report not at the front
- Link to increased efficiencies
- Define the minimum amount or range of funding to be recommended
- Define the amount of time before the additional targeted appropriation sunsets

Individual Subcommittee members agreed to draft alternative text.

NPL Section

Refinement, but not major reorganization, of the NPL section was discussed.

- Recommendations dealing with management of mega sites will be considered for a move to the NPL section.
- Background section is being significantly shortened and major comments and discussion will be moved to an appendix (also revised per comments and edited as necessary). Some brief background, focused on outlining the Subcommittee's overall approach to the NPL recommendations and key data/information considered may be retained as introductory language to the NPL section.
- Revisions will be made to the pollution prevention statement
- Integrate Financial assurances recommendation
- Integrate Technical Advisory Group Recommendation.

Based on the discussion, the NPL section in the next draft will likely have six main subheadings, as follows:

- Introduction (or "Background"), see above.
- How should EPA make the best listing decisions? (Recommendations 2 – 4, 16, and 17.)
- What should be the role of other programs? (Recommendations 5, 10, and 18)
- How should EPA set priorities among listed sites? (Recommendations 7 and 15)
- How should EPA optimize and allocate resources? (Recommendations 8 – 11)
(Possible placement for the funding recommendation)
- How should EPA involve others in NPL listing and cleanup? (Recommendations 12 – 14.)

Mega Sites Section

Refinement of the mega sites section is underway as follows:

- The Background section will be modified based on comments received and the section will be moved to the Appendix
- Management of mega sites recommendations will be integrated into management of sites in the NPL section
- Some of the introductory language that describes the discussions regarding “special” issues around mega sites will remain.
- Include a limited discussion of key points – present those points where consensus exists
 - The Subcommittee gained a better understanding of the mix of sites that are becoming mega sites currently
 - It’s clear that there are some really big sites that are costing a lot of money
 - The Subcommittee found it very difficult to get a clear understanding of what is coming down the road
 - It’s hard for the agency to gauge costs
- Address the Scenarios
- Possible new recommendation: EPA should have a better understanding of the potential future work associated with mega sites and more of an ability to predict what is coming down the road.

Measuring Program Progress (MPP)

Modifications to the MPP section are expected to be modest with changes focused on reaching agreement around the National Measures section. Four main sub-sections will remain:

- Background
- Primary National Measures
- Measures of Program Performance
- Measures of Coordination and Collaboration

Changes to this section will focus on reaching agreement on Recommendation #20 – Primary National Measures.

Section Six

The recommendations in this section will be improved based on the deliberations and written comments. Main issues addressed included:

- The need to elaborate on the importance of this section
- Add text better addressing institutional controls
- Revise Federal Facilities Recommendation

Proposed Discussion Language

Additional text was developed and circulated at the December 9-11 meeting of the Subcommittee to address the following issues:

- Financial Assurance

- Limited increase in Funding and the related funding “backlog” explanation (two options)
- Availability of Technical Assistance Grants to other programs

There was significant discussion at the end of the meeting regarding these ideas and modifications to some of the drafts were proposed.

Follow-up activities and possible conference calls were proposed for work group activities. Meridian/Ross will be responsible for taking the lead in coordinating among members and redrafting text. Initial efforts will focus on discussions with small groups and reworking of the text. The members will be notified of work group conference calls as they are planned.

Public Comment

Members of the public were invited to comment on perspectives and concerns regarding Superfund and the work of the Subcommittee. Testimonies are included in the meeting transcript, available through the DFO. The following individuals commented:

- Larry Silverman, Attorney, City of New Bedford
- Pat Casano, General Electric

Editing and Revision Process for the Final Draft Report

On the final day of the meeting, the group reviewed a plan for revisions to the report. In some cases, members agreed to take the lead in redrafting language for the report. Meridian/Ross will be responsible for redrafting and coordinating among the members to address the issues raised at the meeting.

Schedule

The following revised schedule was developed to define next steps and key milestones for the Subcommittee:

December 19: Final comments on December draft due from Subcommittee members

Dec. 19 – Jan. 18: Redrafting - Meridian/Ross will revise the report text based on input from the Subcommittee

January 19: Circulate a final draft of the Report.

Feb 2: Comments due from members on final draft report

February 11-12: Subcommittee Meeting in Washington DC

Month of Feb: Final polishing of the report

March 1: Circulate final report for sign-off

March 15: tentative sign-off deadline

March 31: Subcommittee work ends

Spring: Formal submission to NACEPT

Final Subcommittee Meeting

The next meeting of the Subcommittee will be held February 11-12, 2004 in the DC area. The meeting agenda will focus on areas of disagreement that remain in the Final Report. The meeting will start at 9:00 am on Wednesday, February 11th and end at or before 6:00 pm Thursday, February 12th.

The meeting adjourned on Thursday, December 11th, 2003 at approximately 12:45 p.m.

ATTACHMENTS

- A. Meeting Introductory Information
- B. List of Presentations and Handouts
- C. List of Subcommittee Members and Staff in Attendance
- D. List of Observers

Attachment A – Meeting Introductory Information

Introductory Information NACEPT Superfund Subcommittee December 9-11, 2003 Meeting

The Superfund Subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) was established in June 2002 for the purpose of assisting EPA in identifying the future direction of the Superfund Program in the context of other federal and state waste and site cleanup programs. Specifically, the Subcommittee will review the relevant documentation and, to the extent possible, provide answers to questions that relate to: a) the role of the NPL, b) mega sites, and c) measuring program performance. The Subcommittee will operate as, and be subject to, the requirements of a Federal Advisory Committee.

Membership on the committee represents a diversity of interests. Subcommittee members include senior-level decision-makers and experts from: academia, business and industry, community and environmental advocacy groups, state, local and tribal governments, environmental justice, and non-governmental and professional organizations. Dr. Raymond Loehr, Professor of Civil Engineering Emeritus at the University of Texas in Austin, is the chair of the Subcommittee.

The Subcommittee is working to accomplish its charge through quarterly Subcommittee meetings and interim Work Group meetings over about a 21-month period. It is anticipated that a consensus report will result from the Subcommittee deliberations. However, where consensus cannot be reached, a written discussion of the views of Subcommittee members will be provided. As appropriate, the Subcommittee may also respond to issues in the form of “consultation,” i.e., dialogue, rather than a formal written report.

Interactive discussion and questioning for the purpose of probing an issue and clarifying a point will be encouraged. As such, any material developed by a Subcommittee member(s), any presentations by a Subcommittee member(s), or comments made by Subcommittee members at this and future meetings should neither be interpreted to reflect the current Subcommittee position on the subject under discussion, nor their future position as it may evolve over the course of deliberation. Additionally, the comments of an individual Subcommittee member should not be interpreted as positions of the EPA. The Subcommittee will deliberate thoroughly before developing consensus findings, conclusions or recommendations. Any report on the opinion of the group will undergo rigorous review by all Subcommittee members before it is considered final and transmitted to EPA.

Subcommittee Meetings

To-date, the Subcommittee has held seven meetings. Five were held in Washington D.C. (June 17-19, 2002; September 23-24, 2002 and January 7-8, 2003, September 3-5, 2003 and November 5-7, 2003), one was held in Phoenix, AZ on March 12-14, 2003, and one was held in New Bedford, MA on June 17-19, 2003. A summary of the meetings can be obtained via the EPA website at (<http://www.epa.gov/oswer/SFsub.htm>). Highlights from the most recent meeting are included below.

November 2003 Meeting

The NACEPT Superfund Subcommittee held its seventh meeting November 5th through 7th, 2003 in Washington D.C. The meeting was open to the public. The main purposes of the meeting included the following:

- Establish a factual basis for gaining a common understanding of the mega site problem.
- Clarify the range of options that the Subcommittee feels should be the focus of the mega sites recommendations to EPA.
- Carefully review the Measuring Program Progress Recommendations, identify areas of agreement on the existing recommendations, clarify changes that need to be made to reach agreement and identify any critical gaps or new recommendations.
- Agree to the next steps for advancing the NPL section of the report.
- The Role of the NPL section of the document was not discussed at the meeting.

Summary of Activity Since Last Meeting

Efforts during the period of time between the November and December 2003 meetings concentrated on revising the draft sections of the report. Subcommittee members participated in work group efforts via conference calls to address the following:

- The NPL listing and management recommendations, and
- New language for a funding proposal.

Additionally, numerous members offered comments and revised text to be factored into the report revisions. A fully revised version of the report was circulated prior to the meeting and available to the public on December 8, 2003.

Objectives of the December 9-11, 2003 Meeting

The December 9-11, 2003 meeting in Washington D.C. is intended to accomplish the following objectives:

- *Provide an opportunity to discuss areas of convergence that are developing in the latest draft of the Report.*

- *Provide an opportunity to discuss areas of disagreement that remain in the latest draft of the report and consider options for resolution.*
- *Provide an opportunity to discuss options finalizing the Report given the range of views on the Subcommittee and the status of deliberations.*

This is an open session for public record. Interested individuals and members of the press have been invited to attend as observers. The Subcommittee will be entertaining questions from the floor during the designated times on the agenda. Angelo Carasea, the Designated Federal Officer, will be available to assist reporters and other interested individuals who would like additional information. His contact information is available on the Roster at the registration table.

Attachment B – Presentations and Handouts

The following presentations and handouts are available electronically as separate documents:

- Powerpoint presentation – December 11, 2003

Attachment C – List of Subcommittee Members and Staff in Attendance

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Attachment D - List of Observers and Public Comments

NACEPT Superfund Subcommittee December 9-11, 2003, Arlington, VA

Public Comment:

- Pat Casano – General Electric
- Larry Silverman- Attorney, City of New Bedford

Public Observers:

- Scott Alfonse – City of New Bedford
- Pat Casano – General Electric
- William Chantry – DynCorp
- Ashley Jeffress – DynCorp
- Judith Johnstad – Sierra Club
- Steve Jones - ATSDR
- Stephen Langel – IWP News
- Jean Martin – BP America
- Tim O’Leary - EPA
- Meredith Preston – BNA
- Larry Silverman- Attorney, City of New Bedford
- Tom Super – EPA OSWER
- Rosemary Wisniewski – CSC/DynCorp
- Joel Wolf – EPA